

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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RONNIE FAMOUS,

Plaintiff,

v.

ORDER

12-cv-144-wmc

DOE ZOHIA, RICHARD HEIDORN,  
DOE WATERFORD, JANE DOE NURSE,  
ANDREW KESSLER, KATHY BRESTER,  
MICHAEL BAENEN, JEANANNE ZWIERS,  
DAVE BURNETT, ESTATE OF JAMES WONG, and  
JAMES RICHTER<sup>1</sup>,

Defendants.

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In an order entered on April 19, 2012, I directed the United States Marshals Service to serve the summons and complaint in this case on defendants James Richards, Doe Zohia and Doe Waterford. The United States Marshals have served defendant James Richards, identified as James Richter, but have not served defendants Doe Zohia and Doe Waterford. According to the unexecuted Marshal service form, the last names of Doe Zohia and Doe Waterford were not recognized as individuals having been employed at Green Bay Correctional Institution. Accordingly, Doe Zohia and Doe Waterford will be treated as Doe defendants, as will Jane Doe Nurse, whose identities may be made known through discovery. The matter of serving the Doe defendants will be taken up at the telephonic preliminary pretrial conference which will be held after all of the defendants who have been served file a responsive pleading to the complaint.

Pursuant to *Sellers v. United States*, 902 F.2d 598, 602 (7th Cir. 1990), it is the plaintiff's responsibility to identify the defendants. If a defendant cannot be identified, he or she cannot

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<sup>1</sup>I have amended the caption to replace James Richards with the name James Richter as identified in the Marshal service form and James Wong with the Estate of James Wong as indicated in the May 16, 2012 order on plaintiff's motion to substitute party.

be served with plaintiff's complaint. Unless the defendant has notice of the claims against him or her and an opportunity to defend against them, plaintiff cannot recover relief. Therefore, at this stage of the proceedings, I will treat defendants Doe Zohia and Doe Waterford, in addition to Nurse Jane Doe, as Doe defendants whose names plaintiff will have to obtain through discovery. If plaintiff does not identify these defendants within the time set plaintiff's claims against them will be dismissed without prejudice.

#### ORDER

IT IS ORDERED that the parties treat defendants Doe Zohia and Doe Waterford, as well as Nurse Jane Doe, as Doe defendants until plaintiff can ascertain their true identities through discovery in accordance with a schedule to be set at the preliminary pretrial conference. The preliminary pretrial conference will be scheduled after defendant James Richter, who has been served, files a responsive pleading to the complaint.

Entered this 2<sup>nd</sup> day of July, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge